



Economic Impact Analysis Virginia Department of Planning and Budget

16 VAC 5-60 – Benefits
Virginia Employment Commission
May 14, 2001

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Virginia Employment Commission (VEC) proposes several amendments to these regulations. The proposed changes that may affect the public include: 1) the awarding of interim legal fees, 2) allowing initial unemployment benefit claims be filed via telephone or Internet, 3) fax and Internet added as methods for filing an appeal to a deputy's determination or an appeals examiner's decision, 4) hearings held via telephone conference call instead of in person, 5) a lower unemployment rate threshold used to designate a geographic area as an "area of high unemployment," and 6) a change in the required time period that unemployment be above the threshold rate in order for an area to be deemed an "area of high unemployment."

Estimated Economic Impact

Pursuant to section 60.2-123 of the Code of Virginia, an attorney representing a claimant before an officer of VEC may not charge a fee unless approved by VEC. Under the current regulations, legal fees may not be awarded until all appeals are exhausted. The agency proposes

to allow that limited interim legal fees be awarded prior to the exhaustion of all appeals. This is a positive change. The legal work is not on a contingent basis. Reducing the probability that legal payments will be delayed well into the future may encourage more lawyers to offer their services in unemployment benefit disputes; thus, individuals may be more likely to find affordable legal representation. The proposed regulations still allow for an agreement between an attorney and a claimant to delay payment of fees until all appeals are exhausted if they so wish.

Under the current regulations, individuals must file their initial unemployment benefit claims in person at a VEC field office. In the proposed regulations, “an initial claim may be filed in-person at a field office, or at the discretion of the commission (VEC), by telephone or Internet.” This proposed change is clearly beneficial for the public. At the discretion of VEC, individuals will have the opportunity to save on the time and transportation costs of traveling to a VEC field office to file an initial unemployment benefit claim in person, by instead filing via telephone or the Internet. According to this proposed provision, persons may continue to file in-person if they so desire.

The proposed regulation further states that “upon implementation of a telephonic claims process, the in-person filing claims shall be discontinued except where circumstances preclude the filing of claims by any other method.” Using federal dollars, VEC plans to establish regional call centers to handle most initial claims either via phone or Internet. This language does provide that for situations such as when phone service is unavailable due to ice storms, etc., in-person filing will still be permitted. The proposal to phase out in-person filing seems to be a reasonable way for VEC to more efficiently use their employees to handle initial claims without forbidding in-person filing under extraordinary circumstances.

Under the current regulations, filing an appeal to a deputy’s determination or an appeals examiner’s decision may only take place in person. VEC proposes to add fax and the Internet as permissible methods of filing appeals. The proposed additional methods will allow for faster filing and will potentially eliminate the time and transportation costs associated with travel to file in person.

Hearings take place at the local VEC field office or, at the discretion of the agency, at some other location, under the current regulations. VEC proposes that all hearings be conducted

via telephone conference call, unless circumstances make this method infeasible. Conducting hearings via telephone conference call instead of in person will eliminate or reduce the time and transportation costs associated with travelling for in-person hearings. According to VEC, it has not been rare for parties to win hearings due to the failure of the other party to show up at the hearing. By eliminating the time and transportation costs associated with in-person hearings, this proposed change will likely increase the frequency that both parties participate in hearings; decisions would then more frequently be based on available evidence rather than attendance.

In order to meet benefit eligibility requirements, unemployment benefit claimants "... must make an active search for work by contacting prospective employers in an effort to find work during each week..." benefits are claimed. In an "area of high unemployment," the required number of employer contacts required to maintain benefit eligibility is reduced. Under the current regulations, an "area of high unemployment" is defined as a "... geographic area of Virginia, including all cities and counties served by a particular full service unemployment insurance (field) office, where the average unemployment rate as determined by the commission (VEC) has been 10% or more during the first four of the last five completed calendar quarters." The agency proposes to amend the definition so that the unemployment rate would only need to be 10% or more during the first of the last two completed calendar quarters in order for the area to qualify as an "area of high unemployment." This proposed change would increase the rapidity and frequency that an area would be defined as an "area of high unemployment," and thus reduce the required number of job contacts necessary to receive unemployment benefits for claimants within the area.

VEC also proposes to lower the unemployment rate threshold for waiving the job contact requirement. Under the current regulations, claimants in areas with an unemployment rate ranging between 10% and 19.9% must make one job contact with an employer each week; while, claimants in areas with an unemployment rate of 20% or more are exempted from the job contact requirement. Claimants residing in areas not deemed an "area of high unemployment" must make at least two job contacts per week. The agency proposes to lower the unemployment rate threshold where claimants are exempted from making a job contact for benefit eligibility from 20% to 15%. Clearly, this proposed change has the potential to increase the frequency that claimants are exempted from making job contacts. The proposed changes to the number of quarters where the unemployment rate must be above 10% for an area to be defined as an "area

of high unemployment,” and to the unemployment rate threshold above which the claimant is exempted from job contacts are both moderately beneficial to affected claimants.

Businesses and Entities Affected

The proposed amendments will affect the approximately 251,000 unemployment benefit claimants, as well as the 10,000 to 12,000 employers and individuals who are participants in unemployment hearings that VEC serves each year. The proposed changes will also affect labor attorneys.

Localities Particularly Affected

The proposed changes will potentially affect all Virginia localities.

Projected Impact on Employment

VEC plans to establish regional call centers in order to serve unemployment benefit claimants more efficiently. The agency anticipates adequately serving claimants with fewer staff through the use of the call centers. VEC expects that an unspecified reduction in staff will be met through attrition.

The proposal to allow the awarding of interim legal fees may enable more lawyers to profitably offer their services in unemployment benefit disputes. By reducing the probability that legal payments will be delayed well into the future, attorneys may consider their net present costs to be lower. This may result in an increase in the hiring of lawyers by unemployment claimants in disputed cases.

Effects on the Use and Value of Private Property

The proposal to allow the awarding of interim legal fees may enable more lawyers to profitably offer their services in unemployment benefit disputes.